

### REMARKS

Applicants have amended claims 13 and 17-20, and have cancelled claims 14-16 and 21-36, during prosecution of this patent application. Applicants are not conceding in this patent application that the subject matter encompassed by said amended and cancelled claims are not patentable over the art cited by the Examiner, since the claim amendments and cancellations are only for facilitating expeditious prosecution of this patent application. Applicants respectfully reserve the right to pursue the subject matter encompassed by said amended and cancelled claims, and to pursue other claims, in one or more continuations and/or divisional patent applications.

The Examiner objected to the specification.

The Examiner objected to claims 13, 14, 15, 18, 20, 21, 22, 23, 26, 28, 29, 30, 31, 34 and 36.

The Examiner objected to claims 16, 24 and 32.

The Examiner rejected claims 15, 23 and 31 under 35 U.S.C. § 112, second paragraph.

The Examiner rejected claims 13-17, 19, 21-25, 27, 29-33 and 35 under 35 U.S.C. § 102(e) as allegedly being anticipated by Airy et al. (U.S. Patent Application Publication No. 2002/0142780, hereinafter Airy).

The Examiner rejected claims 18, 20, 26, 28, 34 and 36 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Airy, as applied to claims 16, 24 and 32 above, in view of Eshet et al. (U.S. Patent No. 6,674,804, hereinafter Eshet).

Applicants respectfully traverse the specification objection, claims objections, § 112, § 102 and § 103 rejections with the following arguments.

**Specification Objection:**

The Examiner objected to the specification. The Examiner argues: "The disclosure is objected to because the reference to "US Patent publication 0028313" on page 2, line 5, is not a valid publication number. The examiner suggests amending line to read, "2003/0028313"."

In response, Applicants have amended the specification to read: "2001/0028313" rather than "2003/0028313", because the year in which US Patent publication 0028313 was published is 2001.

**Claims Objections:**

The Examiner objected to claims 13, 14, 15, 18, 20, 21, 22, 23, 26, 28, 29, 30, 31, 34 and 36.

The Examiner argues that “the plurality of devices” should be changed to “the plurality of client devices” claims 13, 14, 15, 18, 20, 21, 22, 23, 26, 28, 29, 30, 31, 34 and 36.

In response, Applicants have changed “plurality of client devices” to “plurality of devices” in claims 13 so that “plurality of client devices” does not appear in the claims.

The Examiner objected to claims 16, 24 and 32.

Since claims 16, 24 and 32 have been canceled, the objection to 16, 24 and 32 is moot.

**U.S.C. § 112, Second Paragraph**

The Examiner rejected claims 15, 23 and 31 under 35 U.S.C. § 112, second paragraph.

Since claims 15, 23 and 31 have been canceled, the rejection of claims 15, 23 and 31 under 35 U.S.C. § 112, second paragraph is moot.

**35 U.S.C. § 102**

The Examiner rejected claims 13-17, 19, 21-25, 27, 29-33 and 35 under 35 U.S.C. § 102(e) as allegedly being anticipated by Airy et al. U.S. Patent Application Publication No. 2002/0142780, hereinafter Airy).

Since claims 14-16, 21-25, 27, 29-33 and 35 have been canceled, the rejection of claims 14-16, 21-25, 27, 29-33 and 35 under 35 U.S.C. § 102(e) is moot.

Applicants respectfully contend that Airy does not anticipate claim 13, because Airy does not teach each and every feature of claim 13. For example, Airy does not teach...

As a first example of why Airy does not anticipate claim 13, Airy does not teach the feature: “determining, by the server, that a difference exists between the actual data transfer size and the corresponding estimated future data transfer size; ... responsive to said determining that said difference exists, changing an existing data transfer period for the first device in the schedule in a way that minimizes change to the schedule”.

As a second example of why Airy does not anticipate claim 13, Airy does not teach the feature: “receiving, by the server, a transmission over the network from the first device of the data actually stored in the first device, said transmission being received in accordance with the schedule resulting from said changing the existing data transfer period for the first device”.

As a third example of why Airy does not anticipate claim 13, Airy does not teach the feature: “keeping track, by the server, of an off-line device of the plurality of devices that is off-line and informing the off-line device of the off-line device’s schedule for transferring data from the off-line device to the server as soon as the off-line device becomes on-line”.

As a fourth example of why Airy does not anticipate claim 13, Airy does not teach the feature: “receiving, by the server, information relating to GSM radio reception power over time

by a another device of the plurality of devices and estimating, by the server based on the received information relating to the GSM power, times unsuitable for the another device to be connected to the server”.

As a fifth example of why Airy does not anticipate claim 13, Airy does not teach the feature: “said server forecasting a bandwidth of the network by monitoring current download activity from data transfers between the network and said server revising the schedule to achieve data transfer from the plurality of devices to the server at 80% of the forecasted bandwidth”.

As a sixth example of why Airy does not anticipate claim 13, Airy does not teach the feature: “changing, by the server, the schedule in response to detecting that a device of the plurality of devices has run out of memory”.

As a seventh example of why Airy does not anticipate claim 13, Airy does not teach the feature: “determining, by the server, when to upload new software from the server to the plurality of devices, taking into account a reduction in an effective communications bandwidth, said reduction resulting from the data transferred from the plurality of devices to the server”.

Based on the preceding arguments, Applicants respectfully maintain that Airy does not anticipate claim 13, and that claim 13 is in condition for allowance. Since claims 17 and 19 depend from claim 13, Applicants contend that claims 17 and 19 are likewise in condition for allowance.

**35 U.S.C. § 103**

The Examiner rejected claims 18, 20, 26, 28, 34 and 36 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Airy, as applied to claims 16, 24 and 32 above, in view of Eshet et al. (U.S. Patent No. 6,674,804, hereinafter Eshet).

Since claims 26, 28, 34 and 36 have been canceled, the rejection of claims 26, 28, 34 and 36 under 35 U.S.C. § 103(a) is moot.

Since claims 18 and 20 depend from claim 13, which Applicants have argued *supra* to not be unpatentable over Airy under 35 U.S.C. § 102(e), Applicants maintain that claims 18-20 are likewise not unpatentable over Airy in view of Eshet under 35 U.S.C. § 103(a).

### CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 09-0457 (IBM).

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